

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JESSE AARON DAUL,

Plaintiff,

v.

Case No. 18-CV-487

THOMAS NELSON, *et al.*,

Defendants.

ORDER

Plaintiff Jesse Aaron Daul, who is representing himself, filed a complaint under 42 U.S.C. § 1983. On September 12, 2019, the defendants filed a motion for summary judgment on the ground that Daul did not exhaust his administrative remedies before filing this lawsuit. (ECF No. 45.) Under Civil L.R. 56(b)(2), Daul's response materials were due within thirty days of service of the motion. According to the court's records, he has not responded to the motion. Daul's failure to respond suggests that he does not oppose the motion.

The court will give Daul a final opportunity to file his response materials. If he does not do so by the below deadline, the court will grant the motion and dismiss the case with prejudice and without further notice to Daul. *See* Civil L. R. 7(d) ("Failure to file a memorandum in opposition to a motion is sufficient cause for the Court to grant the motion."); Civil L. R. 41(c) ("Whenever it appears to the Court that the

plaintiff is not diligently prosecuting the action . . . the Court may enter an order of dismissal with or without prejudice.”).

As a reminder, if Daul responds to the motion, he must respond to each of the defendants’ proposed findings of fact by agreeing with each proposed fact or explaining why he disagrees with a particular fact. If he does not indicate one way or the other, the court will assume that he agrees with the proposed fact. Daul must support every disagreement with evidence. He can do that by relying on documents or by telling the court his version of what happened in an affidavit or an unsworn declaration under 28 U.S.C. § 1746.¹ An unsworn declaration is a way for a party to tell his side of the story while declaring to the court that everything in the declaration is true and correct. Daul must also respond to the legal arguments in their brief.

IT IS THEREFORE ORDERED that, by **November 1, 2019**, Daul shall either respond to the defendants’ motion for summary judgment or file a letter explaining why he is unable to do so. If the court does not hear from Daul by that date, the court will grant the defendants’ motion and dismiss this case.

Dated at Milwaukee, Wisconsin this 16th day of October, 2019.


WILLIAM E. DUFFIN
U.S. Magistrate Judge

¹ At the bottom of his declaration he should state: “I declare under penalty of perjury that the foregoing is true and correct. Executed on [date]. [Signature].” 28 U.S.C. § 1746(2).